



# Update on Discussions

## Information Related to Employee Status and Eligibility to Work

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For the October 17, 2007 Business and Labor Interim Committee meeting, this document updates the committee members on informal discussions interested legislators have had with various government agencies regarding the collection and use of information related to an employee's status and eligibility to work. For more detailed information regarding these discussions, please contact the Office of Legislative Research and General Counsel.

### Overview of Discussions

At the July interim meeting of the Business and Labor Interim Committee (Committee), the committee discussed methods available to employers to verify an employee's eligibility to work and the issues raised by classifying a worker as an independent contractor or employee. As part of that discussion, the Department of Workforce Services was asked to work with relevant agencies to examine the collection and use of information related to employee status and eligibility to work.

- Agencies involved in looking at these issues include:
  - Department of Commerce (Division of Occupations and Professional Licensing & Division of Corporations and Commercial Code)
  - Department of Workforce Services
  - Labor Commission
  - State Tax Commission.
- These agencies met independently and with interested legislators. Discussions included reviewing current collection and enforcement practices, potential harms that could be addressed, experiences in other states, resource needs, and the need, if any, for legislation.

### Focus of Current Efforts

Those legislators participating in the discussions asked the agencies to focus their initial efforts on the sharing of information between agencies related to employee status and identity theft. The agencies began the process of entering into additional memorandums of understanding (MOUs) to facilitate the greater sharing of information. These discussions have yielded helpful information:

- Each agency has its own restrictions on the disclosure of information. The State Tax Commission may have the most challenging issues because of federally imposed restrictions related to sharing information obtained from the IRS.
- In most cases sharing can occur under current statutes through MOUs. However, in at least one case a change in statute could strengthen the ability to share information between the Department of Workforce Services and DOPL.
- The sharing of information is arguably tied to an expectation of greater enforcement. Depending on the degree of expected enforcement, additional resources may or may not be needed. One example of the possible need for additional funding is the Labor Commission which indicated that it anticipates the need for at least two additional insurance specialists to conduct additional investigations. The Labor Commission approximated that the funding for these specialists would be \$90,000, which could be appropriated from the Uninsured Employers' Fund.
- The agencies were also asked to examine whether they need additional statutory tools to act on the basis of the information shared by other agencies. The agencies in general did not ask for

specific legislative changes.

- Other possible legislative issues include requiring the agencies to use a common identifier, such as a Tax Identification Number (TIN) and looking at legislative efforts related to penalizing document fraud.

Interested legislators anticipate continuing the discussions of potential legislation with any further guidance from committee members.